



Employer Update

A Publication from the Arizona State Retirement System

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Who is an ASRS Member?

The ASRS Internal Audit team has revealed an increasing trend of employers enrolling ineligible employees in the ASRS.

On the one hand, enrolling an employee or two who would otherwise be ineligible for ASRS membership could be taken as an employer erring on the side of being cautious in determining ASRS membership. On the other hand, it seems inexcusable for an employer to enroll dozens of ineligible employees and for whom the employer now must pay 10.10% of compensation to the ASRS as the employer's portion of the contribution rate. Further, the affected employee upon discovery will be informed that their membership in the ASRS is to be terminated, their contributions refunded to them, they are not eligible for a future pension benefit, not eligible to enroll in the ASRS retiree health insurance program, and not eligible for the premium benefit program – all because of employer oversight.

The External Affairs Division's Employer Relations Department of the ASRS has stressed, through its Employer Conferences and Basics for Employers workshops, the criteria for ASRS membership over the many years these conferences and workshops have been conducted. At this time in the history of the employer-ASRS relationship, there should be no question as to who is eligible for ASRS membership and for whom ASRS contributions should be remitted. Yet our Internal Audit team, and some employers that perform "self-audits," uncover ineligible employees en-

rolled in the ASRS. Employers' compensation and benefits budgets are, on occasion, dramatically adversely affected by the inclusion of these ineligible employees.

In this edition of our *Employer Update*, we will reiterate what criteria constitutes ASRS membership, what some of the common myths about membership are, how to identify ineligible employees, under what circumstances police or fire personnel may participate in the ASRS, and where to seek advice and counsel that can make the employer's assessment of ASRS eligibility a no-hassle experience. ■

Membership: The 20/20 Criteria

There are two parts to eligibility for ASRS membership: coverage under the employer's Social Security Section 218 Agreement, and meeting the 20/20 criteria. For purposes of this article we will not discuss the eligibility for new state employees subject to the 26-week waiting period resulting from HB 2024 of the 2011 legislative session. We will look at the 20/20 criteria and where it came from, what it means, and how it applies in different employment scenarios.

Arizona Revised Statutes (A.R.S.) § 38-711(23)(b) defines a member of ASRS as someone who is "engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week." In an effort to shorten the statutory reference, the criteria of twenty weeks for twenty or more hours per week were eventually referred to as the 20/20.

Some employment situations are clear and membership is easily determined when applying the 20/20. For example, an em-

ployee who is hired to work 40 hours per week, year round, clearly meets the 20/20 because there are 52 weeks in a fiscal year and 40 hours is more than the "at least twenty hours" required. Likewise, an employee hired to work 15 hours per week in a 10-week temporary position would clearly not meet the 20/20 because neither the length of the assignment nor the hours per week reach 20. In order to meet 20/20, both criteria must be met. That is why a summer lifeguard could work full time, even with overtime, but not meet the 20/20 because the position only lasts 16 weeks.

When applying the 20/20 criteria in order to determine if an employee is eligible for ASRS membership, it's important to look at the intent of the employment. That's where the phrase "engaged to work" comes into play. If employees are hired with the intention that they will work in a capacity that meets 20/20, then their membership and contributions start from day one. Conversely, if the intention is that they will work in a capacity that is less than 20/20, then they are not eligible for membership. In situations where the intent is not clear, or the employment may or may not meet 20/20, it is important for the employer to track the employee's hours.

For example, two substitute teachers are hired at the start of a school year, but are not "engaged to work" 20/20, because they work on an as-needed basis. The employer does not have a clear intention for them to work less than 20/20 or to meet 20/20.

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Common ASRS Membership Myths

While the ASRS membership criteria is simple and straightforward, sometimes applying that to the various positions employed by the 700+ ASRS employers can be difficult. We wanted to address some of the common myths regarding membership and take this opportunity to clarify them.

MYTH: Substitute Teachers are not eligible for ASRS.

REALITY: Substitute teachers are often employed by multiple districts and are not expected to work 20 hours per week for more than 20 weeks for any one district. ASRS employers are responsible to count the number of weeks a substitute teacher works more than 20 hours. Upon the 20th week, ASRS contributions are mandatory. Substitutes cannot combine hours from multiple ASRS employers to reach the 20/20 criteria. Once a substitute teacher begins contributing, these contributions must continue through the end of the fiscal year regardless of the hours worked during the remainder of that year. Upon the beginning of a new fiscal year, the intent of employment must be re-evaluated and contributions must end if the intent is less than 20/20.

MYTH: Contributions continue into the next fiscal year for an employee whose intent of employment does not meet the 20/20 criteria, but did meet the membership criteria during the prior year.

REALITY: For those employees whose intent of employment is less than 20/20, the intent must be re-evaluated at the beginning of each fiscal year even if they meet the criteria in one year. In other words, they are not eligible for continuing membership in the ASRS unless the intent of employment increases to

20/20 or greater.

MYTH: Employees working less than 20/20 at a second job should be contributing for it if they are contributing through a primary job.

REALITY: The Arizona Revised Statutes changed in 2009 to eliminate what is referred to as dual employment contributions. As of January 1, 2010, each employee hired must meet the 20/20 criteria before they are eligible for ASRS contributions regardless of any other ASRS employers they may be working for. An employee working less than 20/20 at one employer is not eligible for contributions from that employer even if contributing through another ASRS employer.

MYTH: Retirees of another retirement system such as another state or the military are exempt from ASRS membership.

REALITY: ASRS membership statutes do not exclude non-ASRS retirees. Therefore if they are otherwise meeting the 20/20 criteria and covered under the SSA 218 agreement, contributions are mandatory.

MYTH: Employees over a certain age are exempt from mandatory ASRS membership.

REALITY: The ASRS membership statutes do not exclude employees based on age. If the employee is otherwise meeting the 20/20 criteria and covered under the SSA 218 agreement, contributions are mandatory regardless of age.

MYTH: Temporary/probationary employees are not eligible for ASRS membership.

REALITY: Even though a job or position may be titled as

“temporary,” that doesn’t necessarily exclude the position from membership. ASRS membership statutes don’t have any exceptions for employees labeled as temporary, probationary or any other nomenclatures.

MYTH: All ASRS retirees are exempt from ASRS membership.

REALITY: Any employees, including retirees, who meet the 20/20 criteria, are required to contribute. An ASRS retiree is only exempt from mandatory ASRS membership if three specific requirements are all met. First, the retiree must have reached normal retirement. Second, the retiree must have terminated all ASRS employment prior to retirement and 365 days prior to resuming 20/20 employment. Third, within 30 days of resuming 20/20 employment, the retiree must acknowledge in writing their intent to work and keep their pension. If all three of these requirements are not met in full, then contributions are required if the intent of employment meets or exceeds the 20/20 criteria. ■

Coming Soon...

There are two major changes coming your way that ASRS will be implementing in the next six months. The next issue of the *Employer Update* will address these changes in more depth.

The **Ending Payroll Verification** forms requested from employers when a member retires or seeks to refund their ASRS account will become online processes instead of paper forms. The release date for this new online process will occur before the end of this fiscal year.

Beginning July 1, 2012, all employers will pay an **Alternate Contribution Rate (ACR)** for each ASRS retiree they employ in any capacity. This will include direct employees, leased employees, and independent contractors.

Employer Relations will keep you posted on the latest information regarding these upcoming changes. ■

Ineligible ASRS Members

One of the most important responsibilities you have as an ASRS employer partner is to enroll all employees who meet membership criteria in the ASRS. Conversely, you must not enroll employees who do not meet membership criteria.

Do not include in ASRS membership any employee who is hired to work:

- In a position that is excluded from your Social Security Section 218 agreement. (A.R.S. § 38-727)
- Fewer than 20 weeks in the fiscal year. (A.R.S. § 38-711(23)(b))
- Fewer than 20 hours per week. (A.R.S. § 38-711(23)(b))

ASRS membership is a mandatory condition of employment for all employees who meet the eligibility and membership criteria defined in statutes. (A.R.S. § 38-711(23), § 38-727) **Only those employees who meet the membership criteria can become members.** Neither the employee nor the employer has a choice regarding membership. A qualifying employee cannot reject membership; and, employees who do not meet the criteria cannot choose membership.

Membership is determined solely by ASRS statutory provisions, not employer personnel rules or employment classifications. If an employee's terms of membership do not meet the membership criteria, do not submit contributions for that employee.

There are two criteria for your employees to become ASRS members.

Both must be met:

- An employee must be in an eligible position in order to become a member. Eligible positions are positions that are included in your Section 218 Agreement.
- They must be engaged to work at least 20 weeks in a fiscal year for at least 20 hours per week. An

employee becomes a member of the ASRS when you engage that employee to work at least 20 weeks in a fiscal year for at least 20 hours per week. (A.R.S. § 38-711(23)(b))

NOTE: State employees who are hired to begin work on or after July 20, 2011, and who are not already ASRS members, are subject to a 26-week waiting period. These state employees become members on the 27th week of employment if membership criteria are met. A state employee is an individual who is employed by a state agency, department, board, or commission, a state university, the judicial branch, the Arizona Corporation Commission, and the Legislature. (A.R.S. § 38-671)

If an employee's initial terms of employment do not meet membership criteria, but conditions change and actual hours/weeks worked change, the employee may become a member at that time. For example, if an employee is engaged to work fewer than 20 hours per week, but conditions change and they begin working 20 or more hours each week, contributions must be withheld and submitted when the employee has worked their 20th week at 20 or more hours per week. The weeks in which the employee worked 20 or more hours do not have to be consecutive.

Another example would be when an employee is engaged to work 20 weeks at 20 or more hours per week during the fiscal year, and during the fiscal year their actual hours worked falls below 20 hours per week. In this instance, the employer began submitting contributions starting with the employee's first pay period. The employer must continue the contributions through the end of the fiscal year, even though the employee's hours worked fell below 20 or more hours per week. ■

20/20, *continued from page one*

The employer must keep track of the hours each substitute works each week, and count the weeks they work at least 20 hours. The weeks do not need to be consecutive. Upon the 20th week that the substitute works 20 or more hours in a fiscal year, ASRS membership begins. From this point forward, the substitute contributes as an active member for the remainder of the fiscal year, regardless of the number of hours worked in the remaining weeks of the fiscal year.

It is important not to guess or make assumptions when determining whether an employee meets the 20/20 criteria. While adjustments can be made to correct errors, applying a blanket practice of treating all employees as 20/20 can cause a complex and expensive situation for your employer. ASRS is governed by state laws, and therefore does not have flexibility in applying those laws. When questions arise that cannot be answered by ASRS publications such as this newsletter or the Employer Manual, contact your ASRS Employer Liaison for assistance. ■

Check Member Eligibility Online

Employer web users may now use the Check Member Eligibility tool to determine the ASRS status of employees and new hires. With a SSN and DOB, employers can determine if someone is an ASRS member, retiree, etc. Web users who have the "Process Enrollments" role within the online enrollment application have access to this tool. As a reminder, those with that role have the ability to process enrollments only if they have also been assigned to an enrollment region as a processor. This means the Online Enrollment Manager may provide access to the member eligibility tool to other web users without granting full access to the online enrollment application. ■

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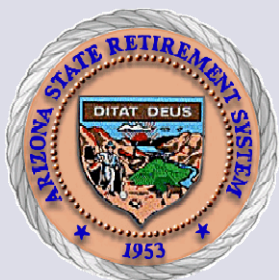
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Secure Email

Login to your employer user account on the ASRS website:

www.azasrs.gov

Click **Secure Email** to send sensitive information and attachments directly to Employer Relations.



New Staff? Changing Roles?

Please keep the ASRS informed if there have been changes or additions to your personnel. Current contact information is essential for the ASRS to improve the integrity of our data and better serve our employer partners.

The best way to update your employer's important contact information is through your employer account on the ASRS website. When you have changes to your staff, such as human resources managers, payroll managers, and benefit or health

insurance liaisons, ensure that they and other key people receive important information from ASRS Employer Relations by adding them as web users to your employer account.

The Employer Administrator for ASRS online applications can designate any number of employees as web users. Web users may not have enrollment or contribution reporting access, but they do have access to forms not available on the public part of the website, secure email to and from Employer Relations, and can register for employer meetings. ■

Is this your first year working with ASRS?

Employer Relations is hosting ASRS Basics for Employers workshops in November and December. This introductory level workshop will equip you with tools and information you need. Login to your ASRS employer web account to register; reservations are required and space is limited. The remaining Basics workshops for calendar year 2011 are November 29 and December 7 in Phoenix.

ASRS and PSPRS: Dual Eligibility

ASRS is governed by state statutes with regard to membership. In general, ASRS membership statutes require that

- an individual be employed by the State of Arizona or a participating political subdivision,
- the individual's position be covered by their employer's Social Security Section 218 Agreement, and
- the individual be engaged to work at least 20 hours a week for at least 20 weeks in a fiscal year.

The State of Arizona and all Arizona political subdivision Section 218 Agreements exclude fire and police positions that were covered by a public retirement plan at the time the State or political subdivision signed its respective Section 218 Agreement.

Analysis of this retirement system coverage exclusion requires a review based on when each employer signed its Section 218 Agreement and which public retirement plans existed at that time.

Thus, police and fire personnel of some public employers are permitted to participate in the ASRS, while police and fire personnel of other employers are not.

In summary, retired PSPRS may be entitled to participate in the ASRS while receiving their PSPRS benefit, provided they are in a position that meets ASRS membership requirements.

Individuals seeking guidance on this issue should contact their employer's Human Resources Department, who may then consult the State Social Security Administrator, Michele Briggs. ■